

REMARKS

[0003] Applicant respectfully requests entry of the following remarks and reconsideration of the subject application. Applicant respectfully requests entry of the amendments herein. The remarks and amendments should be entered under 37 CFR. § 1.114 as they are submitted with a Request for Continued Examination and the appropriate fee.

[0004] Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1-3, 5-8, 10-15, and 21-24 are presently pending. Claims amended herein are 1, 8, and 21. Claims withdrawn or cancelled herein are 16-20. New claims added herein are none.

Statement of Substance of Interview

[0005] The Examiner graciously talked with me—the undersigned representative for the Applicant—on 3/5/09. Applicant greatly appreciates the Examiner's willingness to talk. Such willingness is invaluable to both of us in our common goal of an expedited prosecution of this patent application.

[0006] During the interview, I discussed how the claims differed from the cited references, namely Yen, Hidary, and Brodsky. Without conceding the propriety of the rejections and in the interest of expediting prosecution, I also proposed several possible clarifying amendments.

[0007] While no agreement was reached during the interview, the Examiner was receptive to the proposals.

[0008] Applicant herein amends the claims in the manner discussed during the interview. Accordingly, Applicant submits that the pending claims are allowable over the cited references of record for at least the reasons discussed during the interview.

Claim Amendments

[0009] Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claims 1, 8, and 21 herein. Applicant amends claims to clarify claimed features. Such amendments are made to expedite prosecution and more quickly identify allowable subject matter. Such amendments are merely intended to clarify the claimed features, and should not be construed as further limiting the claimed invention in response to the cited references.

[0010] Claims 1 and 8 are amended merely to clarify claimed subject matter. Support for the amendment to claim 21 is found throughout the originally filed application and drawings but at least at page 12 beginning at line 18 continuing through page 14 line 17.

Substantive Matters

Claim Rejections under § 103

[0011] The Examiner rejects claims 1-3, 5-8, 10-24 under § 103. For the reasons set forth below, the Examiner has not made a *prima facie* case showing that the rejected claims are obvious.

[0012] Accordingly, Applicant respectfully requests that the § 103 rejections be withdrawn and the case be passed along to issuance.

[0013] The Examiner's rejections are based upon the following references in varying combination:

- **Yen:** *Yen, et al.*, US Patent No. 6,668,278 (issued December 23, 2003);
- **Hidary:** *Hidary, et al.*, US Patent No. 5,774,664 (issued June 30, 1998); and
- **Brodsky:** *Brodsky*, US Patent No. 5,809,471 (issued September 15, 1998).

Lack of *Prima Facie* Case of Obviousness (MPEP § 2142)

[0014] Applicant disagrees with the Examiner's obviousness rejections. Arguments presented herein point to various aspects of the record to demonstrate that all of the criteria set forth for making a *prima facie* case have not been met.

Based upon Yen, Hidary, and Brodsky

[0015] The Examiner rejects claims 1-3, 5-7, 16-20 under 35 U.S.C. § 103(a) as being unpatentable over Yen, in view of Hidary, and further in view of Brodsky. Applicant respectfully traverses the rejection of these claims and asks the Examiner to withdraw the rejection of these claims.

Independent Claim 1

[0016] Applicant submits that combination of Yen, Hidary, and Brodsky does not teach or suggest at least the following features as recited in this claim (with emphasis added):

- “receive supplemental data sent to a multicast address, ***wherein the received supplemental data relates to one or more key phrases of a closed captioning script*** of a video program;”
- “initiate an enhancement action based upon the supplemental data to enhance the video program as the video program is being played, wherein the enhancement action is performed ***without user interaction***”

[0017] The Examiner indicates (Action, pp.3-4) the following with regard to this portion of the claim:

The combination of Yen and Hidary still fails to explicitly disclose that "the received supplemental data relates to one or more key phrases of a closed captioning script".

Brodsky discloses that "the received supplemental data relates to one or more key phrases of a closed captioning script" (Col. 1 lines 50-62, Col. 2 lines 20-41, Col. 5 lines 36-63, i.e. Brodsky teaches that keywords are extracted from the closed-captioning to develop a dictionary of keywords that can be used to request additional information). Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of receiving supplemental data that relates to one or more key phrases of a closed captioning script as taught by Brodsky, to improve the information retrieval system of Yen for the predictable result of enabling the user to quickly and efficiently retrieve supplemental information pertaining to the program they were watching.

[0018] Applicant notes the Examiner admits that Yen and Hidary do not teach or suggest "wherein the received supplemental data relates to one or more key phrases of a closed captioning script" as claimed, and therefore relies upon disclosure of Brodsky.

[0019] Applicant additionally notes the Examiner admits the combination of Brodsky with Yen presents an improvement of the system of Yen. Applicant appreciates same.

[0020] Applicant further notes that improvements are patentable according to 35 USC 101, if they are further novel and non-obvious under §102 and/or §103. The Examiner asserts only that the improvement is obvious because the resulting combination was predictable. Applicant respectfully disagrees.

[0021] Applicant submits that such an improvement was *not* predictable at least because there is no intrinsic evidence that a user would be enabled to “quickly and efficiently retrieve supplemental information pertaining to the program they were watching” by combining teachings.

[0022] Firstly, the instant claim recites that the enhancing action is done “without user interaction”, and the Examiner asserts that Yen teaches that enhancing actions are done without user interaction.

[0023] Conversely, the system that Brodsky discloses requires significant user interaction to initiate any enhancing action, such as is detailed in Brodsky Col. 6, ll. 20-26. Therefore, to assert that a user of Yen’s system would be able to quickly and efficiently retrieve supplemental information is, with all due respect, illogical.

[0024] Secondly, the relating of *phrases* of a closed captioning script with supplemental information no more enables a *user* to quickly retrieve the supplemental information, than would relating merely a closed captioning script to supplemental information, as the Examiner asserts that Yen teaches.

[0025] Details of efficiency and quickness of retrieval of supplemental information are in how a user is enabled to *interface* with the supplemental information not necessarily how it is related to a closed captioning script.

[0026] Applicant submits the forgoing only arguendo, as Applicant further submits that Brodsky does not teach “wherein the received supplemental data relates to one or more key phrases of a closed captioning script” as claimed.

[0027] According to Brodsky “supplemental information” or “supplemental entertainment” pertains to an item just seen, or more generally to a word or group of words just heard” *not* a closed captioning script, or phrases thereof (Col. 3, ll. 54-56).

[0028] The dictionary of words and phrases that Brodsky discloses is created in order to interpret a user request (Col. 4, ll. 4-9) such as a voice command (Col. 5, ll. 11-13). Brodsky further explains that the disclosed system must search for information that relates to the request (Col. 6, ll. 26-28). This would strongly suggest that there is no existing relation between a phrase of a closed captioning script and supplemental information, even if the closed captioning script is used directly to interpret the user request, which it is not.

[0029] Therefore, Brodsky does not cure the deficiency of Yen and Hidary noted by the Examiner.

[0030] As shown above, the combination of Yen, Hidary, and Brodsky does not teach or suggest all of the elements and features of this claim. Furthermore, as shown above, the claims present an unobvious and therefore patentable improvement over Yen. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Dependent Claims 2-3 and 5-7

[0031] These claims ultimately depend upon independent claim 1. As discussed above, claim 1 is allowable. It is axiomatic that any dependent claim,

which depends from an allowable base claim, is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Based upon Yen, Hidary, and Brodsky

[0032] The Examiner rejects claims 8, 10-15, and 21-24 under 35 U.S.C. § 103(a) as being unpatentable over Hidary in view of Brodsky, and further in view of Yen. Applicant respectfully traverses the rejection of these claims and asks the Examiner to withdraw the rejection of these claims.

Independent Claim 8

[0033] Applicant submits that combination of Hidary, Brodsky, and Yen, does not teach or suggest at least the following features as recited in this claim (with emphasis added):

- “automatically associating supplemental data ***with at least one key phrase of a closed captioning script*** by parsing the closed captioning script and determining an insertion point for the supplemental content;”

[0034] The Examiner indicates (Action, pp. 8) the following with regard to this portion of the claim:

Hidary fails to explicitly disclose “associating supplemental data with at least one key phrase of a closed captioning script by parsing the closed captioning script and; wherein the enhancement action is initiated without user interaction”.

Brodsky discloses “associating supplemental data with at least one key phrase of a closed captioning script by parsing the closed captioning script” (Col. 1 lines 50-62, Col. 2 lines 20-41, Col. 5 lines 36-63, i.e. Brodsky teaches that keywords are extracted from the closed-captioning to develop a dictionary of keywords that can be used to request additional information). Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of receiving supplemental data that relates to one or more key phrases of a closed captioning script as taught by Brodsky, to improve the enhanced video programming system of Hidary for the predictable result of enabling the user to quickly and efficiently retrieve supplemental information pertaining to the program they were watching.

[0035] Applicant notes the Examiner admits that Hidary does not disclose “associating supplemental data with at least one key phrase of a closed captioning script” and further submits that Brodsky does not cure this deficiency.

[0036] As noted above with regard to claim 1, Brodsky discloses that “supplemental information” or “supplemental entertainment” pertains to an item just seen, or more generally to a word or group of words just heard” not a closed captioning script, or phrases thereof (Col. 3, II. 54-56).

[0037] The dictionary of words and phrases that Brodsky discloses is created in order to interpret a user request (Col. 4, II. 4-9) such as a voice command (Col. 5, II. 11-13).

[0038] Brodsky further explains that the disclosed system must search for information that relates to the request (Col. 6, ll. 26-28). This disclosure strongly suggests that there is no existing relation between a phrase of a closed captioning script and supplemental information, even if the closed captioning script were disclosed as being used directly to interpret the user request, which it is not.

[0039] Therefore, Brodsky does not cure the deficiency Hidary noted by the Examiner. Applicant notes further that Yen is not relied on to cure nor does it cure this deficiency.

[0040] This difference notwithstanding, Applicant has further amended claim 8 herein to recite that the association of "supplemental data with at least one key phrase of a closed captioning script" is automatic. Claim 8 as amended herein specifically recites:

"automatically associating supplemental data with at least one key phrase of a closed captioning script by parsing the closed captioning script and determining an insertion point for the supplemental content"

[0041] Therefore, even if it could be argued that Brodsky teaches associating supplemental data with at least one key phrase of a closed captioning script", it could not further be argued that Brodsky teaches that it is done automatically.

[0042] Brodsky explicitly states the following:

"[w]ith this invention, the viewer calls up a menu of recently stored key words and notes that the word 'France' and/or the

`map of France` was indeed stored in the dictionary. Then the viewer inputs a request for `France`. The input may be via voice, or via a direct or remote selection from a displayed dictionary menu. The recognition system matches that word against the words in its dictionary, and recognizes that the viewer wants some information about France. It issues a request to an application database for information about France." Col. 6, ll. 20-26

[0043] As can be seen from this cited section, user input is *required* to make any association between the words and supplemental information.

[0044] As shown above, the combination of Yen, Hidary, and Brodsky does not teach or suggest all of the elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Dependent Claims 10-15

[0045] These claims ultimately depend upon independent claim 8. As discussed above, claim 8 is allowable. It is axiomatic that any dependent claim, which depends from an allowable base claim, is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Independent Claim 21

[0046] Without conceding the neither the propriety of the combination of references nor the rejection relying on such, Applicant amends independent claim 21 herein to recite the following:

“a key phrase module configured to:

parse a closed captioning script to identify one or more key phrases in a closed captioning script, wherein each identified key phrase has the same number of words, the parsing comprising determining a minimum number of words from the closed captioning script required to create unique phrases by iteratively selecting different word lengths and checking for duplication among the resulting created phrases,

associate supplemental data to the one or more key phrases identified from the closed captioning script, and

multicast an enhancement action to a multicast address; and

a program enhancement listener configured to listen to the multicast address for the enhancement action and initiate an enhancement action based upon the supplemental data to enhance a video program as the video program is being played, wherein the initiating the enhancement action is performed without requiring user interaction, and wherein the initiating is synchronized with the video based on the association of the supplemental data to the one or more key phrases identified from the closed captioning script.”

[0047] Applicant submits that the rejection of independent claim 21 is moot, at least because of the amendment made herein.

[0048] Furthermore, Applicant submits that combination of Hidary, Brodsky, and Yen does not teach or suggest all of the features recited by independent claim 21 as amended herein. For example, at least the following features as is not taught or suggested by the cited references (with emphasis added):

- “parse a closed captioning script to identify one or more key phrases in a closed captioning script, ***wherein each identified key phrase has the same number of words***, the parsing comprising determining a minimum number of words from the closed captioning script required to create unique phrases by iteratively selecting different word lengths and checking for duplication among the resulting created phrases”

[0049] Applicant submits there is no disclosure in any of the cited references that would teach or suggest “each identified key phrase has the same number of words” as claimed.

[0050] As shown above, the combination of Yen, Hidary, and Brodsky does not teach or suggest all of the elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Dependent Claims 22-24

[0051] These claims ultimately depend upon independent claim 21. As discussed above, claim 21 is allowable. It is axiomatic that any dependent claim, which depends from an allowable base claim, is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Dependent Claims

[0052] In addition to its own merits, each dependent claim is allowable for the same reasons that its base claim is allowable. Applicant requests that the Examiner withdraw the rejection of each dependent claim where its base claim is allowable.

Conclusion

[0053] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action**. Please call or email me at your convenience.

Respectfully Submitted,

Lee & Hayes, PLLC
Representatives for Applicant

/Randall T. Palmer 61,440/ _____ Dated: 03/25/09
Randall T. Palmer (randy@leehayes.com; x4761)
Registration No. 61440
Rob Peck (robp@leehayes.com; x6019)
Registration No. 56826
Customer No. **22801**

Telephone: (509) 324-9256
Facsimile: (509) 323-8979
www.leehayes.com